

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK ROSS, individually
and on behalf of similarly situated
persons,

Civil Case No. 20-12994
Honorable Linda V. Parker

Plaintiff,

v.

SUBCONTRACTING CONCEPTS,
LLC, AUTO-WARES, LLC, and
JOHN DOES 1-10,

Defendants.

OPINION AND ORDER

On November 6, 2020, Plaintiff filed this action on behalf of himself and similarly situated individuals alleging under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.* that Defendants misclassified him as an independent contractor to circumvent the protections of federal and state wage laws. (ECF No. 1.) In an Opinion and Order entered on December 23, 2021, the Court granted Defendants’ Motion to Dismiss and Compel Arbitration (ECF Nos. 11, 12) and denied Plaintiff’s Motion for Conditional Certification (ECF No. 22). (ECF No. 35.) On January 20, Plaintiff filed a Notice of Appeal to the United States Court of Appeals for the Sixth Circuit. (ECF No. 37.)

Presently before the Court is the parties' Joint Motion for an Indicative Ruling to Effect Terms of Settlement pursuant to Rule 62.1 of the Federal Rules of Civil Procedure, as a result of a settlement between the parties, asking this Court to indicate its willingness to accept the limited remand from the Court of Appeals and proceed to review and approve the proposed Settlement Agreement. (ECF No. 40.)

Federal Rule of Civil Procedure 62.1 provides an avenue for a district court to render an indicative ruling in this instance. Rule 62.1 provides:

If a timely motion is made for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the court may:

- (1) defer considering the motion;
- (2) deny the motion; or
- (3) state either that it would grant the motion if the court of appeals remands for that purpose or that the motion raises a substantial issue.

Fed. R. Civ. P. 62.1(a). Having considered the parties' motion and the entire record, the Court agrees that if the case is remanded to it by the Court of Appeals for the Sixth Circuit, it will grant the relief requested.

IT IS ORDERED that if this case is remanded to the District Court by the Court of Appeals, this Court will grant the parties' joint Motion pursuant to Rule 62.1 of the Federal Rules of Civil Procedure and proceed to review and approve

the proposed settlement.

IT IS SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: May 19, 2022